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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,528	09/26/2003	Sylvia Monshcimcr	236706US6	6515
22850	7590	12/04/2006	EXAMINER COZART, JERMIE E	
C. IRVIN MCCLELLAND OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			ART UNIT 3726	

DATE MAILED: 12/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/670,528

Applicant(s)

MONSHEIMER ET AL.

Examiner

Jermie Cozart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-20, 24-27 and 31-41 is/are pending in the application.
- 4a) Of the above claim(s) 11, 12, 18, 19, 25, 26, 32, 33, 35-37 and 39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10, 13, 17, 20, 24, 27, 31, 34, 38, 40 and 41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/24/06 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 10, 13, 17, 20, 24, 27, 31, 34, 38, 40, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Savitski et al. (6,596,122) in view of Fischerkeller et al. (6,155,302).

Savitski discloses a composite part such as a pipeline (20, 30, 40), wherein the pipeline can be configured in a variety of different sizes which therefore leads to other inherent uses (i.e. fuel line). The pipeline comprises a transmissive adaptor (40) which both a plastic pipe (20) and another plastic part (30) which are essentially not transmissive. The adaptor (40) is a sleeve. The adaptor and the plastic pipe and the other plastic part are welded together by using a laser (col. 6, lines 35-45), and it is

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apparent that the parts are welded to one another along their periphery. The other plastic part (30) is a pipe. The pipeline of Savitski can be considered is essentially a hydraulic fluid line and can also be considered a motor vehicle pipeline. *See column 6, line 23 – column 10, line 3, and figures 1-3 for further clarification.*

Regarding the above cited rejections, *MPEP Section 2113 [R-1] **Product By Process Claims***, states that "[T]he lack of physical description in a product-by-process claim makes determination of the patentability of the claim more difficult, since in spite of the fact that the claim may recite only process limitations, it is the patentability of the product claimed and not of the recited process steps which must be established. We are therefore of the opinion that when the prior art discloses a product which reasonably appears to be either identical with or only slightly different than a product claimed in a product-by-process claim, a rejection based alternatively on either section 102 or section 103 of the statute is eminently fair and acceptable. As a practical matter, the Patent Office is not equipped to manufacture products by the myriad of processes put before it and then obtain prior art products and make physical comparisons therewith." In re Brown, 459 F.2d 531, 535, 173 USPQ 685, 688 (CCPA 1972).

Savitski, however, does not disclose the other plastic part having at least one nipple which is provided for the connection to the pipe.

Fischerkeller discloses providing another plastic part (11) with at least one nipple (10) which is provided for the connection to the pipe (20). *See column 1, line 66 – column 2, line 24, and figure for further clarification.*

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the other plastic part of Savitski with at least

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one nipple, in light of the teachings of Fischerkeller, in order to connect the other plastic part to the pipe.

Response to Arguments

4. Applicant's arguments, see page 9, filed 10/24/06, with respect to the rejection(s) of claim(s) 10, 13, 17, 20, 24, 27, 31, 34, 38, 40, and 41 under 35 U.S.C. 102(b) as being anticipated by Savitski et al. (6,596,122) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Savitski et al. (6,596,122) in view of Fischerkeller et al. (6,155,302).

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jermie Cozart whose telephone number is 571-272-4528. The examiner can normally be reached on Monday-Thursday, 7:30 am - 6:00 pm.

6. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bryant can be reached on 571-272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JERMIE E. COZART
PRIMARY EXAMINER

November 28, 2006